IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

WA.No. 693 of 2007()

AGAINST THE JUDGEMENT IN WPC.25064/2006 Dated 05/10/2006

APPELLANT: APPELLANT/PETITIONER

MADHU V.P, SANTHINIKETHAN,NETTISSERY
P.O, THRISSUR- 680 657.

BY ADV. SRI.THOMAS ABRAHAM
SRI.K.B.ARUNKUMAR

RESPONDENTS: RESPONDENTS/RESPONDENTS

1. STATE OF KERALA REPRESENTED BY ITS SECRETARY, HIGHER EDUCATION DEPARTMENT, GOVERNMENT OF KERALA SECRETARIAT, THIRUVANANTHAPURAM.

2. DIRECTOR,TECHNICAL EDUCATION DEPARTMENT THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI BENHY GERVACIS

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN & ANTONY DOMINIC,JJ.

W.A.NO.693 OF 2007

Dated this the 21st day of March, 2007

JUDGMENT

Raman,J.

Appellant is the petitioner in W.P.(C). No.25064/2006. He is an employee in the Travancore Titanium Prouducts Limited, Thiruvananthapuram, a Compay registered under the Companies Act. He is undergoing the evening course in B.Tech in the College of Engineering, Thiruvananthapuram. He joined the course in October 2005 and will complete the course only in June, 2009. By better prospects he applied for the post of Workshop Instructor (Mechanical Engineering) in the Government Technical School, Adimali. Pursuant to the selection, he was issued Ext.P2 appointment order directing to report for duty on or before 6/3/2006. If he has to report for duty, necessarily he will have to discontinue the course. Hence, he sought for extension of time for reporting duty until he

completes the course in June, 2009. Though according to him he had made a request for extension of joining time by 45 days from 6th March, 2006, he did not produce a copy of the said request and hence not on record. He sought for extension of time to join the new post by two letters dated 27/3/2006 and 5/7/2006. All these representations are however not on record. By Ext.P4 the Government rejected his claim. In the meantime, yet another representation (Ext.P7) was made by him, wherein he sought for extension of time to join the new post until his course is completed. In other words, he was seeking for 40 months' time for joining the new post from 6/3/2006. According to him, in similar circumstances extension of joining time had been granted to one Mr.Tony Varghese and he may be extended the same benefit and granted extension of time of 40 months as sought for in Ext.P7.

2. The learned Single Judge held that even as

per Ext.P8 the appellant/petitioner was informed that unless he reports for duty within seven days, the appointment would be cancelled. Ext.P8 is dated 18/8/2006. The petitioner filed the writ petition on 22nd September, 2006. Further the learned Single held that the Government cannot be insisted to give extension of time, as no such right is conferred on an appointee.

2. The learned counsel, Sri Thomas Abraham, appearing on behalf of the appellant points out that he has specifically mentioned in Ext.P7 representation that extension of joining time for nearly three years has been granted to one Mr.Tony Varghese by the Government Higher Education Department and according to him, he is also entitled for similar benefits in the matter of extension of time. It is true that extension of time could be granted by the Appointing Authority. But as per Ext.P5 dated 16th June, 1998, what is the time to be granted and whether any time could

be granted is a matter to be considered by the Appointing Authority. As of right the petitioner cannot seek 40 months' joining time merely for the reason that he wanted to complete his studies. If the request is allowed, necessarily the post will remain unfilled without appointing anybody. When the petitioner applied for a post and secured employment, necessarily in terms of the appointment order he is bound to join duty in the appointed station. No right as such is conferred on an employee to seek extension of time, that is purely a discretionary matter. In the absence of any such right, this Court cannot issue any writ of mandamus directing the respondents to grant such extension as sought for. The learned Single Judge, in such circumstances, was perfectly justified in not interfering with the matter and issuing directions as sought for.

3. We find no merits in this writ appeal and the same is dismissed. However, we make it clear

that the dismissal of the writ petition and the writ appeal will not stand in the way of the Appointing Authority extending any such joining time, if they consider it necessary or appropriate.

P.R.RAMAN,
Judge.

ANTONY DOMINIC,
Judge.

kcv.